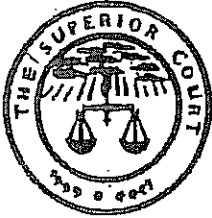


# Commonwealth of Massachusetts

SUFFOLK, ss.



SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

No. SUCV2012-02036H

JOSEPH DiMARIA, Administrator of the, Plaintiff(s)  
Estate of MICHAEL J. DiMaria

v.

CONCORDE ENTERTAINMENT, INC., d/b/a  
BILL'S BAR / THE LANSDOWNE PUB, Defendant(s)

## SUMMONS

To the above-named Defendant: CONCORDE ENTERTAINMENT, INC., d/b/a BILL'S BAR  
/ THE LANSDOWNE PUBL

You are hereby summoned and required to serve upon Lewis C. Eisenberg, Esq.

plaintiff's attorney, whose address is 803 Hancock St., Quincy, MA 02170, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord two thousand \_\_\_\_\_.

A true copy Attest:

6-15-12

Deputy Sheriff Suffolk County

*Michael Joseph Donovan*

Clerk/Magistrate

### NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED  
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

<b>CIVIL ACTION COVER SHEET</b>		TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT COUNTY: SUFFOLK		DOCKET NO. _____	
TYPE PLAINTIFF(S) NAME	JOSEPH DiMARIA, Administrator of the Estate of MICHAEL J. DiMARIA	TYPE DEFENDANT(S) NAME	CONCORDE ENTERTAINMENT, INC., d/b/a BILL'S BAR / THE LANSDOWNE PUB		

Type Plaintiff's Attorney name, Address, City/State/Zip  
Phone Number and BBO#

Type Defendant's Attorney Name, Address, City/State/Zip  
Phone Number (If Known)

Lewis C. Eisenberg, Esq.  
Cosgrove, Eisenberg & Kiley, PC.  
803 Hancock Street - P.O. Box 189  
Quincy, MA 02170  
Tel: 6170479-7770 / BBO #152140

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
B08	Wrongful Death	A	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

#### TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses
2. Total doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe)

Subtotal

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical expenses

E. Reasonably anticipated lost wages and compensation to date

F. Other documented items of damages (describe)

\$ \_\_\_\_\_

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Wrongful death case of 23 year old, survival by parents as heirs

Total \$4,000,000.00

#### CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$.....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

*Lewis C. Eisenberg*

Date:

5/29/12

A.O.S.C. 3-2007

**CIVIL ACTION COVER SHEET INSTRUCTIONS**  
**SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE**

* CONTRACTS	* REAL PROPERTY	MISCELLANEOUS
A01 Services, Labor and Materials (F)	C01 Land Taking (eminent domain) (F)	E02 Appeal from Administrative Agency G.L. c. 30A. (X)
A02 Goods Sold and Delivered (F)	C02 Zoning Appeal, G.L. c.40A (F)	E03 Claims against Commonwealth or Municipality (A)
A03 Commercial Paper (F)	C03 Dispute concerning title (F)	E05 Confirmation of Arbitration Awards (X)
A08 Sale or Lease of Real Estate (F)	C04 Foreclosure of mortgage (X)	E07 G.L. c.112, s.12S (Mary Moe) (X)
A12 Construction Dispute (A)	C05 Condominium Lien & Charges (X)	E08 Appointment of Receiver (X)
A99 Other (Specify) (F)	C99 Other (Specify) (F)	E09 General Contractor bond, G.L. c. 149, ss. 29, 29a (A)
E03 Claims against Commonwealth or Municipality (A)	E03 Claims against Commonwealth or Municipality (A)	E11 Worker's Compensation (X)
	<b>EQUITABLE REMEDIES</b>	E12 G.L.c.123A, s.12 (SDP Commitment) (X)
*TORT	D01 Specific Performance of Contract (A)	E14 G.L. c. 123A, s. 9 (SDP Petition) (X)
B03 Motor Vehicle Negligence (F)	D02 Reach and Apply (F)	E15 Abuse Petition, G. L. c. 209A (X)
personal injury/property damage	D05 Contribution or Indemnification (F)	E16 Auto Surcharge Appeal (X)
B04 Other Negligence- (F)	D07 Imposition of a Trust (A)	E17 Civil Rights Act, G.L. c.12, s. 11H (A)
personal injury/property damage	D08 Minority Stockholder's Suit (A)	E18 Foreign Discovery Proceeding (X)
B05 Products Liability (A)	D10 Accounting (A)	E19 Sex Offender Registry G.L. c. 178M, s. 6 (X)
B06 Malpractice-Medical (A)	D12 Dissolution of Partnership (F)	E25 Plural Registry (Asbestos cases) (F)
B07 Malpractice-Other (Specify) (A)	D13 Declaratory Judgment G.L. c. 231A (A)	E95 **Forfeiture G.L. c. 94C, s. 47 (F)
B08 Wrongful Death, G.L. c.229, s.2A (A)	D99 Other (Specify) (F)	E96 Prisoner Cases (F)
B15 Defamation (Libel-Slander) (A)		E97 Prisoner Habeas Corpus (X)
B19 Asbestos (A)		E99 Other (Specify) (X)
B20 Personal Injury- slip & fall (F)		
B21 Environmental (F)		
B22 Employment Discrimination (F)		
B99 Other (Specify) (F)		
E03 Claims against Commonwealth (A)		

\*Claims against the Commonwealth or a municipality are type E03, Average Track, cases.

\*\*Claims filed by the Commonwealth pursuant to G L c 94C, s 47 Forfeiture cases are type E95, Fast track.

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	[X] Yes [ ]

**SUPERIOR COURT RULE 29**

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
MAY RESULT IN DISMISSAL OF THIS ACTION.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. SUCV2012-02036H

JOSEPH DiMARIA, )  
Administrator of the Estate of )  
MICHAEL J. DIMARIA, )  
 )  
Plaintiff, )  
 )  
V. )  
 )  
CONCORDE ENTERTAINMENT, )  
INC., d/b/a BILL'S BAR / )  
THE LANSDOWNE PUB )  
 )  
Defendant. )

**COMPLAINT OF THE PLAINTIFF**

**Nature of the Claim**

1. This is a cause of action for personal injury and wrongful death as a result of a claim for inadequate security on premises.

**Description of the Parties**

2. The plaintiff, Joseph DiMaria, resides at 121 7<sup>th</sup> Street, Hicksville, New York. He is the duly appointed administrator of the Estate of Michael J. DiMaria by the Surrogate's Court of the State of New York for Nassau County.

3. The defendant, Concorde Entertainment, Inc., d/b/a Bill's Bar/The Lansdowne Pub, is a corporation duly organized under the laws of the Commonwealth of Massachusetts with a principal place of business at 7 - 9 Lansdowne Street, City of Boston, County of Suffolk, Commonwealth of Massachusetts.

**General Allegations**

4. On or about August 14, 2010, the plaintiff decedent, Michael J. DiMaria was lawfully upon the premises of The Lansdowne Pub located at 7 - 9 Lansdowne Street in City of Boston, County of Suffolk, Commonwealth of Massachusetts.

5. On or about August 14, 2010, the defendant, Concorde Entertainment, Inc., d/b/a owned, operated and was in control of the premises known as The Lansdowne Pub at 7 – 9 Lansdowne Street in City of Boston, County of Suffolk, Commonwealth of Massachusetts.

6. The defendant, Concorde Entertainment, Inc., d/b/a The Lansdowne Pub had a duty to keep the premises safe including adequate security for those lawfully upon the premises.

7. On or about August 14, 2010, the plaintiff decedent, Michael J. DiMaria was struck by a glass thrown by a patron at The Lansdowne Pub.

8. At the time of the incident, the patron that threw the glass was involved in a dispute and argument with another patron.

9. As a direct and proximate result of being struck by a piece of glass, the plaintiff decedent, Michael J. DiMaria sustained severe personal injuries and died.

**COUNT I – Wrongful Death / Negligence**

10. The plaintiff realleges paragraphs 1 through 9 and incorporates them as if more fully set forth herein.

11. The defendant negligently and carelessly maintained the premises of The Lansdowne Pub and provided inadequate security for those lawfully upon the premises.

12. As a direct and proximate result thereof, the plaintiff decedent Michael J. DiMaria was injured and died.

13. This count is brought for wrongful death for compensatory damages under Chapter 229, Section 2 for the heirs of the Estate of Michael J. DiMaria.

**COUNT II – Survival**

14. The plaintiff realleges paragraphs 1 through 13, including Count I and incorporates them as if more fully set forth herein.

15. The defendant negligently and carelessly maintained the premises of The Lansdowne Pub and provided inadequate security for those lawfully upon the premises.

16. As a direct and proximate of the defendant's negligence, the plaintiff decedent Michael J. DiMaria sustained serious personal injuries as more fully set forth in the General Allegations above.

17. This count is brought for the conscious pain and suffering sustained by Michael J. DiMaria until the time of his death.

**COUNT III – Wrongful Death / Gross Negligence**

18. The plaintiff realleges paragraphs 1 through 17, including Count I and Count II and incorporates them as if more fully set forth herein.

19. The defendant in a grossly negligent fashion, provided inadequate security on the premises of The Lansdowne Pub on August 14, 2010.

20. As a result of the gross negligence of the defendant, the plaintiff decedent Michael J. DiMaria died.

21. As a result of the gross negligence of the defendant, the plaintiff decedent's Estate is entitled to recovery of punitive damages in an amount not less \$5,000.00.

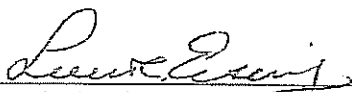
**WHEREFORE**, the plaintiff, Joseph DiMaria, Administrator of the Estate of Michael J. DiMaria demands judgment against the defendant in an amount to be determined by the fact finder along with interest and costs.

**THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES.**

Respectfully submitted,

The plaintiff,  
JOSEPH DIMARIA, Administrator of the Estate of  
MICHAEL J. DIMARIA  
By his attorney,

DATED: 5-29-12

  
\_\_\_\_\_  
Lewis C. Eisenberg, Esq. / BBO #152140  
COSGROVE, EISENBERG and KILEY, PC  
803 Hancock Street - P.O. Box 189  
Quincy, MA 02170-0997  
(617) 479-7770

CIVIL DOCKET # SUCV2012-02036-H  
Courtroom CtRm 1015, 3 Pemberton Square, Boston

RE: Dimaria v Concorde Entertainment Inc

TO: Lewis C Eisenberg, Esquire  
Cosgrove Eisenberg & Kiley  
803 Hancock Street  
PO Box 189  
Quincy, MA 02170-0997

**SCHEDULING ORDER FOR A TRACK**

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated, and case shall be resolved and judgment shall issue by **05/15/2015**

<b><u>STAGES OF LITIGATION</u></b>	<b><u>DEADLINES</u></b>		
	<b>SERVED BY</b>	<b>FILED BY</b>	<b>HEARD BY</b>
Service of process made and return filed with the Court	08/28/2012	08/28/2012	
Response to the complaint filed (also see MRCP 12)		09/27/2012	
All motions under MRCP 12, 19, and 20	09/27/2012	10/27/2012	11/26/2012
All motions under MRCP 15	07/24/2013	08/23/2013	08/23/2013
All discovery requests and depositions served and non-expert depositions completed	05/20/2014		
All motions under MRCP 56	06/19/2014	07/19/2014	
Final pre-trial conference held and/or firm trial date set			11/16/2014
Case shall be resolved and judgment shall issue by <b>05/15/2015</b>			<b>05/15/2015</b>

- The final pre-trial deadline is not the scheduled date of the conference.
- You will be notified of that date at a later time.
- Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

Dated: 05/31/2012

Michael Joseph Donovan  
Clerk of the Court

Telephone: 617-788-8147